REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SPECIAL DIVISION[1]

REPUBLIC OF THE PHILIPPINES,
Petitioner,

- versus -

CIVIL CASE NO. 0141
For: *Forfeiture under RA No. 1379 in relation relation to EO Nos. 1, 2, 14 and 14-A*

FERDINAND E. MARCOS (represented by his Estate/Heirs) and IMELDA R. MARCOS,
Respondents,

Present:

DE LA CRUZ, J.
QUIROZ, J.
HERRERA, J.

Promulgated on:

DEC 19 2019

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PARTIAL SUMMARY JUDGMENT

DE LA CRUZ, J.:

This resolves the following:

1. Petitioner's *Motion for Partial Summary Judgment (Re: Paintings)*,[2] dated February 24, 2016;

2. *Opposition to Motion for Partial Summary Judgment (Re: Paintings)*,[3] dated April 15, 2016, of respondent Estate of Ferdinand E. Marcos;

[1] *This Special Division was created by virtue of the En Banc Resolution, dated December 2, 2008, of the Honorable Supreme Court in **A.M. No. 08-10-05-SB**, as amended by the High Court's Resolutions, dated June 15, 2010 and November 29, 2016.*
[2] Records, Vol. XXXII, pp. 5-809

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3. Petitioner's *Reply (To: Respondent Estate of Ferdinand E. Marcos's Opposition to Motion for Partial Summary Judgment)*,[4] dated June 24, 2016;

4. Petitioner's *Manifestation and Motion,*[5] August 16, 2019;

5. *Comment/Opposition (to Plaintiff's Manifestation and Motion [dated 16 August 2019]),*[6] dated September 16, 2019; and

6. Petitioner's *Memorandum*,[7] dated August 23, 2019.

THE ANTECEDENT FACTS

On December 17, 1991, the Republic, through the Presidential Commission on Good Government (PCGG), filed a Petition,[8] pursuant to Republic Act No. 1379[9] in relation to Executive Orders Nos. 1, 2, 14 and 14-A. The petition for forfeiture, docketed as Civil Case No. 0141, seeks to recover the "ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate family, relatives and subordinates and close associates, whether located in the Philippines or abroad."[10] Part of the properties sought to be recovered are the paintings and other valuable decorative arts, more particularly described in Paragraph 9, subparagraph 6 of the Petition which reads:

> 9. However, the other properties which had been identified so far by both the PCGG and the Solicitor General (excluding those involved in the aforecited civil cases) are approximated at US$5-B and which include –
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> xxx
>
> (6) Paintings and silverwares, already sold at public auction in the United States worth $17-M as shown by Annex "F" hereof, aside from the jewelries, paintings and other valuable decorative arts found in

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[3] Records, Vol. XXXV, pp. 136-153
[4] Records, Vol. XXXV, pp. 233-251
[5] Records, Vol. XLI, pp. 2-461
[6] Records, Vol. XLII, pp. 169-174
[7] Records, Vol. XLII, pp. 2-144
[8] Records, Vol. I
[9] An Act Declaring Forfeiture in Favor of the State Any Property Found to Have Been Unlawfully Acquired by Any Public Officer or Employee and Providing for the Proceedings Therefor (June 18, 1955)
[10] *Petition*, p. 5

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> Malacañang and in the United States estimated to be about $23.9-M as listed and described in Annexes "F-1", "F-2", "F-2-a" and "F-3" hereto attached as integral parts hereof;
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In their Answer, dated October 18, 1993,[11] respondents averred:

> 9. Respondents specifically DENY paragraph 9 of the Petition for lack of knowledge or information sufficient to form a belief as to the truth of the allegations since Respondents are not privy to the actual data in possession of the PCGG and the Solicitor General.

Since the filing of the petition in 1991, some of the properties listed therein were already declared by the Supreme Court as ill-gotten and forfeited in favor of the State.

On July 15, 2003, the Supreme Court rendered a Decision in G.R. No. 152154 (entitled *Republic of the Philippines v. Honorable Sandiganbayan [Special First Division], et al.),* declaring the Swiss deposits in the amount of US$658,175,373.60 as of January 31, 2002, plus interest, to be ill-gotten and forfeited in favor of the Republic. According to the High Court, considering that the total amount of the Swiss deposits was considerably out of proportion to the known lawful income of the Marcoses, which is $304,372.43, the presumption that said dollar deposits were unlawfully acquired was duly established.

In another related case, G.R. No. 189434 (entitled *Marcos, Jr. v. Republic*), the Supreme Court, in a Decision[12] dated April 25, 2012, declared all the assets, properties, and funds of Arelma, S.A., an entity created by the late Ferdinand E. Marcos, forfeited in favor of the Republic. Similar to its ruling in the Swiss deposits case, the Supreme Court affirmed the Sandiganbayan's findings that the totality of assets and properties acquired by the Marcos spouses was manifestly and grossly disproportionate to their aggregate salaries as public officials, and they were unable to overturn the *prima facie* presumption of ill-gotten wealth. In its Resolution, dated

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[11] Records, Vol. IV, p. 45
[12] 671 SCRA 280

March 12, 2014, the High Court denied with finality respondents' motions for reconsideration.

Petitioner also filed a motion for partial summary judgment over the "jewelries found in Malacañang", referred to in paragraph 9, subparagraph 6 of its Petition. In a Partial Summary Judgment dated January 13, 2014, this Court declared the pieces of jewelry known as the *Malacañang Collection* as ill-gotten and forfeited in favor of the petitioner Republic. Respondents moved to reconsider but in its Resolution, dated June 11, 2014, the Court denied their motions for reconsideration. Respondents went to the Supreme Court which, in a Resolution, dated January 18, 2017, affirmed this Court's rulings.

Under date September 3, 2014, petitioner filed an *Urgent Ex-Parte Motion for Preliminary Attachment*, followed by a *Supplement* thereto, seeking the issuance of a writ of attachment of the paintings and other valuable decorative arts, including the eight (8) paintings and other paintings described in Annex A of the motion, or the Judicial Affidavit, dated August 18, 2014, of PCGG Commissioner Maria Ngina Theresa Chan-Gonzaga. In its *Resolution*, dated September 24, 2014, the Court granted the said motion and issued a Writ of Attachment, thus:

> Finding merit in the motion, the Court hereby GRANTS the same. As prayed for, let a Writ of Attachment issue against the paintings more particularly described as follows:
>
> 1. *La Baignade Au Grand Lemps* by Pierre Bonnard
> 2. *Madonna and Child* by Michaelangelo Buenarroti
> 3. *Vase of Red Chrysanthemums* by Bernard Buffet
> 4. *Still Life with Idol* by Paul Gauguin
> 5. *Portrait of the Marqueza de Sta. Cruz* by Francisco de Goya
> 6. *L'Aube* by Joan Miro
> 7. *Reclining Woman VI / Femme Couchee VI* by Pablo Picasso
> 8. *Jardin de Kew Pres de la Serre 1892* by Camille Pissaro
>
> and such other paintings listed in Annex "A" of the motion, which is the Judicial Affidavit dated August 18, 2014 of Comm. Ma. Ngina Teresa Chan-Gonzaga, as may be found in the following known places of residence or office of respondent Imelda Marcos, viz:

1. Penthouse, One McKinley Place, 3rd Avenue cor. 26th Street, Bonifacio Global City
2. 34-B Pacific Plaza Condominiums, Ayala Avenue, Makati City
3. Room NB-218, House of Representatives of the Philippines, HOR Complex, Constitution Hills, Quezon City
4. Batac, Ilocos Norte
5. Don Mariano Marcos Street corner P. Guevarra Street, San Juan, Metro Manila

or in any other place/s where they may be found, and for the attached paintings to be deposited with the *Bangko Sentral ng Pilipinas*, which shall serve as the custodian of the paintings for this Court. If and when the paintings are transferred in its custody, the *Bangko Sentral ng Pilipinas* shall not move, remove or transfer the paintings without prior authority from this Court, and shall do whatever is necessary for the preservation of the said properties under judicial custody.

SO ORDERED.

Respondents moved for reconsideration and/or to set aside the writ of preliminary attachment, which the Court denied in its Resolution, dated March 3, 2015. Respondents then filed a Petition for Certiorari before the Supreme Court (docketed as G.R. No. 217901, entitled *Imelda Romualdez Marcos, et al. vs. Republic of the Philippines, et al.*), assailing the two (2) resolutions of the Court.

On March 15, 2017, the Supreme Court resolved to dismiss the petition and affirm the assailed Sandiganbayan resolutions. In a Resolution, dated September 11, 2017, the High Court also denied with finality respondents' Motion for Reconsideration of the dismissal of their petition. Consequently, an Entry of Judgment was issued.

Petitioner's Motion for Partial Summary Judgment

On March 4, 2016, petitioner filed the present motion praying that judgment be rendered declaring the following artworks as unlawfully acquired and forfeited in favor of the Republic: (a) the artworks listed in the *PCGG List of Missing Artworks*;[13] (b) Grandma

[13] Annex A of Petitioner's Motion
PCCG LIST OF MISSING ART WORKS
(INTERNATIONAL)
1. AIZPIRI, Paul. Vase of Flowers
2. AVED, Jaqcues-André-Joseph. Portrait of a Lady

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3. BACON, Francis. Study of Self-Portrait (1963)
4. BACON, Francis. Self-Portrait (1972)
5. BACON, Francis. Masturbation
6. BAER, Martin. Jar with Apples, Ibiza
7. BAR, Bonaventure de [School of]. Young Girl with a Puppy
8. BAR, Bonaventure de [School of]. Fêtê champêtre
9. BONNARD, Pierre. La Baignade au Grand Lemps
10. BOSSCHAERT, J. P. A Floral Still Life
11. BOUCHER, Francois. L'Aube
12. BOUCHER, Francois. Unknown Title (La Peinture?)
13. BOUDIN, Eugene [Style of]. Honfleur
14. BOULTBEE, John. Two Horses with Groom
15. BRAQUE, Georges. Cabinets et Bateaux
16. BRAQUE, Georges. Unknown
17. BRAQUE, Georges. Le Gueridon Rose.
18. BRUEGHEL, Jan the younger. Allegory of Venus at the Forge of Vulcan
19. BRUEGHEL, Jan the younger. Allegory of Fire
20. BUENARROTI, Michaelangelo [MICHAELANGELO]. Madonna and Child.
21. BUFFET, Bernard. Vase of Red Chrysanthemums
22. BUHOT, Felix-Hilaire. Westminster Abbey
23. CARMICHAEL, James Wilson. Shipping off Mediterranean Coast
24. CEZANNE, Paul. Landscape, Aix-en-Provence
25. CHAGALL, Marc [Moishe Shagal]. Lovers and Vase of Flowers
26. COFFERMANS, Marcellius. Glorification of the Virgin
27. COSSIERS, Jan. Jesus Crucified
28. COTELLE, Jean the younger [Circle of]. Design for a Fan: Nymphs and Putti before a Grotto
29. DEANE, Charles. A View of the River Thames at Twickenham Ferry
30. DEGAS, Edgar. Danseuse S'habillant
31. DEGAS, Edgar. Le Petit Dejeuner a la Sortie de Bain
32. Edwards, Lionel. A Painting of a Polo Match.
33. ENGLISH SCHOOL, 16th Century. Portrait of a Boy in Scarlet and White
34. FANTIN-LATOUR, Henri. Roses Tremieres (Hollyhocks 1898)
35. FERNELEY, John Jr. Inspection of the Lancashire Hussars bt Commanding Officer, the Lord Gerard
36. FOUJITA, Tsuguharu. Fidele Ami
37. FOUJITA, Tsuguharu. Enfant d'Artiste
38. GAUGUIN, Paul. Fruits
39. GAUGUIN, Paul. Still Life with Idol
40. GOBILLARD, Paule. Jeune Femme au Piano
41. GOBILLARD, Paule. Jeune Femme au Roug
42. GOBILLARD, Paule. Paysage du midi
43. GOBILLARD, Paule. Panier de Poires
44. GOBILLARD, Paule. Cope de Fleurs
45. GOBILLARD, Paule. Jeune Femme à la Robe Rouge
46. GOBILLARD, Paule. Jeune Femme au Chapeau
47. GOBILLARD, Paule. Lecture au Jardin
48. GOBILLARD, Paule. Vase de Fleurs
49. GOBILLARD, Paule. Vase de Fleurs
50. GOBILLARD, Paule. Vase de Fleurs
51. GOBILLARD, Paule. Vase de Fleurs
52. GOBILLARD, Paule. Vase de Fleurs
53. GOBILLARD, Paule. Vase de Fleurs
54. GOBILLARD, Paule. Vase de Fleurs
55. GOBILLARD, Paule. Paysage
56. GOBILLARD, Paule. Paysage

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57. GOBILLARD, Paule. La Visite
58. GOBILLARD, Paule. Nu Endormi
59. GOBILLARD, Paule. Nature Morte
60. GOBILLARD, Paule. Portrait de Petit Fille
61. GOBILLARD, Paule. Jeune Femme S'habillant
62. GOBILLARD, Paule. Jeune Femme au Chignon
63. GOBILLARD, Paule. Jeune Femme à la Robe Rose
64. GOBILLARD, Paule. La Conversation
65. GOBILLARD, Paule. La Couture
66. GOBILLARD, Paule. Bord de Mer
67. GOBILLARD, Paule. Vue d'Assise
68. GOBILLARD, Paule. Le Mesnil
69. GOBILLARD, Paule. Rose trémière au Mesnil
70. GOBILLARD, Paule. Paysage du Midi
71. GOBILLARD, Paule. Portrait de Femme a L'Eventail
72. GOBILLARD, Paule. Femme à la Rose
73. GOBILLARD, Paule. Mme. Valery à Dinard
74. GOBILLARD, Paule. Bord de Mer
75. GOBILLARD, Paule. Clairs Matins Aux Bruyères
76. GOBILLARD, Paule. La Tonnelle
77. GOBILLARD, Paule. Les Trois Pommes
78. GOBILLARD, Paule. Au Salon
79. GOBILLARD, Paule. Nature Moire
80. GOBILLARD, Paule. La Tasse de Thé
81. GOBILLARD, Paule. La Dernier Essayage
82. GOBILLARD, Paule. Jeune Femme Tricontant près d'une Fenêtre
83. GOBILLARD, Paule. Nu se Coiffant
84. GOBILLARD, Paule. Le Jardin Fleur
85. GOBILLARD, Paule. Le Hameau
86. GOBILLARD, Paule. Au Bord de la Mer
87. GOBILLARD, Paule. Panier de Fruits
88. GOBILLARD, Paule. Jeune Femme Tricontant près d'la Fenêtre
89. GOBILLARD, Paule. Femme au Chapeau
90. GOBILLARD, Paule. Paysage de Cagnes
91. GOBILLARD, Paule. Fleurs et Fruits
92. GOYA, Francisco de. Portrait of the Marqueza de Sta. Cruz
93. GREUZE, Jean Baptiste [Circle of]. The Apple Seller.
94. HARDY, Heywood. A Pair of Hunting Scenes
95. Same as 94
96. HEPWORTH, Barbara. Four Forms
97. HONE, R. A. Nathaniel [Attributed to]. Portrait of a Lady
98. HUET, Jean Baptiste Marie. Pastorale with Shepherdesses (a pair of drawings)
99. Same as 98
100. ITALIAN SCHOOL (19th Century). A Monk in Prayer
101. KOCH, John. Interior with Children Playing
102. KOEHLER, Henry. Brandywine Action
103. KOKOSCHKA, Oscar. Still Life with Pumpkin
104. LATOUR, Maurice Quentin. Une Femme Pensante Un Livre à la Main
105. LE PRINCE, Jean Baptiste. La Caravanne
106. LE PRINCE, Jean Baptiste. Boy Fishing
107. LIPPI, Fra Filippo (Filippino) (?). Madonna and Child
108. LUKER, William. The Morning of the Chase
109. MAGRITTE, Rene. La Lumiere dès coincidences
110. MANET, Edouard. Méry Laurent a la Violette 1878

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Moses Paintings;[14] and (c) the artworks listed in *A Report on the Metropolitan Museum of Manila's Art Collection.*[15] Petitioner

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111. MARQUET, Albert. Le Cyprès de Djenan Sidi Saïd
112. MATISSE, Henri. Cup of Tea
113. MIJTENS, Daniel. Portrait of Diane Beauclerk (as Diana the Huntress)
114. MIRO, Joan. L'Aube
115. MODIGLIANI, Amedeo. Jeanne Hébuterne (1918)
116. MONDRIAN, Piet. Eucalyptus
117. MONET, Claude. Rain (La Pluie) 1886
118. MONET, Claude. L'Eglise et la Siene à Vétheuil
119. MONET, Claude. Water Lilies & Japanese Briage
120. MOOR, Carel de. Portrait of a Man
121. MOORE, Henry. Working Model for Hill Arches
122. MORISOT , Berthe. Jeune Fille dans une Serre
123. NANI, Giacomo. Still Lifes of Flowers
124. Same as 123
125. NETSCHER, Caspar. Young Woman with a Parrot
126. OUDRY, Jean Baptiste. A Hasty Departure
127. PICASSO, Pablo. Fruit Dish, Bottle and Guitar
128. PICASSO, Pablo. Reclining Woman VI/Femme Couchee VI
129. PISARRO, Camille. Jardin de Kew près de la Serre 1892
130. ROBBIA, Andrea della. Madonna and Child
131. ROBIE, Jean-Baptiste. Floral Still Life
132. ROBERSON, Anna Mary [Grandma Moses]. Evening
133. ROBERSON, Anna Mary [Grandma Moses]. Winter 1941
134. ROBERSON, Anna Mary [Grandma Moses]. Picnic 1959
135. ROUSSEL, Pierre. Vase of Nasturtiums
136. RUYSCH, Rachel [Circle of]. Still Life of Flowers
137. SABOURAUD, Emile. Still Life of Flowers.
138. SCHALL, Jean Frederick. A Young Woman in Her Dressing Room
139. SEGOVIA, Andres. Still Life of Flowers in a Chair
140. SHAW, William. Two Gentlemen with Arab Pony
141. SIGNAC, Paul. La Rochelle
142. SISLEY, Alfred. Langland Bay
143. UTRILLO, Maurice. La Maison Blanche c. 1914
144. UTRILLO, Maurice. Sacré Couer Montmarte et Marquis
145. VAN BYLERT, Jan Harmensz. The Musicians.
146. VAN DYCK, Sir Anthony. An Apostle (St. Simon? St. Peter? St. Paul?)
147. VAN EYCK, JAN. Musician.
148. VAN GOGH, Vincent Willem. Peasant Woman Winding Bobbins
149. VAN RIJN, Rembrandt Harmenszoon [Rembrandt]. Portrait of a Man
150. VUILLARD, Edouard. Park in the Spring
151. WYETH, Andrew. Moon Madness (19820)
152. ZUCCARELLI, Francesco. Figures in a landscape
153. Same as 152
154. Artist Unknown. Portrait of a Lady Hiding a Pencil.
155. Artist Unknown. Title unknown.
156. Artist Unknown. Sitting Lady with Hat & Flower on Lap Beside a Sitting Dog

[14] Annex B, *ibid*

GRANDMA MOSES PAINTINGS

1. Oil on masonite, entitled "Cambridge Valley in Winter", 1944, signed: Grandma Moses
2. Oil and Tempera on masonite, entitled "Hoosick Valley", 1944, signed: Grandma Moses
3. Oil on masonite, entitled, "April", 1955, signed: Grandma Moses
4. Oil on masonite, entitled, "The Meeting Place", 1949, signed: Grandma Moses

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likewise prays for the forfeiture of other similarly acquired valuable artworks which may also be found to be under the control and possession of respondents, their agents, representatives, nominees or persons acting on their behalf. Corollarily, petitioner prays that respondents be ordered to cease and desist from disposing, transferring and selling the artworks. Also, it is prayed that respondents render an accounting of artworks that are still under their possession and control, or if sold, render an accounting and surrender the proceeds thereof.

Petitioner contends that respondents former President Ferdinand E. Marcos and Imelda Marcos spent over US$24 Million dollars in paintings and various artworks. Petitioner seeks the forfeiture of these properties as their costs are grossly and astronomically disproportionate to respondent spouses' legitimate incomes. In connection to their claim, petitioner makes reference to the prior partial summary judgments made by this Court which were

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5. Oil on masonite, entitled, "Checkered House", 1984, signed: Grandma Moses
6. Worsted yarn embroidery, entitled, "Sunset in Virginia", undated, signed: Grandma Moses
7. Oil on board, entitled, "The Sun has Gone Down", 1945, signed: Grandma Moses
8. Oil on board, entitled, "The Old Red Mill in Springtime", 1944, signed: Grandma Moses
9. Worsted yarn embroidery, entitled, "Old Castle", undated, signed: Grandma Moses
10. Oil on masonite, entitled, "On the Road to North Adams", 1948, signed: Grandma Moses
11. Oil on masonite, entitled, "Grandma Moses House I 1913", 1952, signed: Grandma Moses
12. Oil on masonite, entitled, "Williamstown", 1947, Grandma Moses
13. Oil on masonite, entitled, "Cambridge Valley on Winter", 1944, Grandma Moses
14. Oil on board, entitled, "The Waterfall", 1940 Grandma Moses
15. Oil on board, entitled, "Champlain", 1959, Grandma Moses
16. Oil painting, entitled, "Catching Thanksgiving Turkey", Grandma Moses: 1943
17. Oil painting, entitled, "Thrashing Cane", Grandma Moses; 6/21/53

[15] Annex C, *ibid*

A REPORT ON THE METROPOLITAN MUSEUM OF MANILA'S ART COLLECTION
(covering the period from 31 Dec. 86 to 31 Dec. 87)

1) ITALIAN MASTERS COLLECTION (75 pcs.)
2) RUSSIAN ICONS COLLECTION (120 pcs.)
3) YUGOSLAVIAN NAIFS COLLECTION (191 pcs.)
4) RUSSIAN LACQUERWARE COLLECTION (207 pcs.)
5) ITALIAN MOSAICS COLLECTION (9 pcs.)
6) EARLY & CONTEMPORARY PRINTS COLLECTION (24 pcs.)
7) Other minor collections
   a) Colour Photographs of Sister Adele (4 pcs.)
   b) Black and White Photographs (13 pcs.)
   c) Painting on Chinese Paper by Hau Chiok
   d) IMELDA R. MARCOS
   e) An Untitled Sculpture by Castrillo
   f) Mural Paintings (2 pcs.)
8) J. Y. CAMPOS ESTATE COLLECTION (30 crates total; 75 pcs. artworks included)

upheld by the Supreme Court. In *Republic v. Sandiganbayan,*[16] the Supreme Court *En Banc* declared as ill-gotten the aggregate amount of US$356 Million Swiss deposits, and ordered its forfeiture in favor of the Republic. Similarly, in *Marcos, Jr. v. Republic,*[17] which involves the forfeiture of the Arelma assets and properties, the Supreme Court affirmed this Court's pronouncement that the Republic was able to establish the *prima facie* presumption that the assets and properties acquired by the Marcoses were manifestly and patently disproportionate to their aggregate salaries as public officials. In a Resolution, the High Court also clarified that the Swiss Deposits Decision is a separate judgment pursuant to Section 5, Rule 36 of the Rules of Court. Hence, petitioner is not precluded from seeking partial summary judgment over a different subject matter covered by the same petition for forfeiture.

In the instant motion, petitioner quotes the following averments in its petition which pertain to the valuable paintings and other artworks sought:

OVERVIEW

> **This petition goes beyond the Swiss documents. It will also establish the scandalous extent of the Marcoses' property acquisitions that are grossly and astronomically disproportionate to their legitimate incomes. Documents clearly show the illegal acquisition by the Marcoses** of lands, buildings, condominium units, mansions, business interests, jewelries, **paintings**, **decorative arts**, cash in different international currencies, shares of stocks in various corporations, bank deposits in the Philippines, Hong Kong and United States, trust accounts and other personal and real properties.
>
> The greed was simply unparalleled, the plunder unmitigated, the pattern unbelievably remorseless. The professed innocence becomes even more appalling in the face of the claim that they have no money in Switzerland. For, they are represented there by no less than 30 lawyers who have collected from them sizeable attorneys' fees, not to mention professional fees of between US$350 and US$400 per hour for the past five years. All these in the face of the Filipino people's continuing misery and suffering!

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[16] July 15, 2003, 406 SCRA 190
[17] April 25, 2012, 671 CRA 280

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The situation cries out for justice – overdue as it is. The adverse effects of the systematic subjugation of the country's economy must be reversed. xxx xxx xxx

1. xxx there are assets and properties pertaining to the Marcoses "which had been acquired by them directly or indirectly, through or as a result of the improper or illegal use of funds or properties owned by the Government xxx," and that those assets and properties "Are in the form of bank accounts, deposits, trust account, shares of stocks, building, shopping centers, condominium, mansions, residences, estates, **and other kinds of real and personal properties in the Philippines and in various countries of the world."**

xxx xxx xxx

7. **The aggregate amount of money and other property that respondent spouses acquired during their employments in the Government could not yet be determined with conclusiveness and finality** as the other assets, monies and properties involved in the 34 civil cases are still being litigated before the Sandiganbayan for the purpose of determining the actual percentage owned by the Marcoses as well as the corresponding shares or percentage pertaining to their co-defendant in said cases (Civil Case Nos. 0002 to 0035, inclusive).

8. xxx xxx xxx

9. However, **the other properties which had been identified so far by both the PCGG and the Solicitor General** (excluding those involved in the aforecited civil cases) are approximated at US$5-B and which include – xxx

> (6) **Paintings** and silverwares, already sold at public auction in the United States worth $17-M as shown by Annex "F" hereof, aside from the jewelries, paintings and other valuable decorative arts found in Malacañang and in the United States estimated to be about $23.9-M as listed and described in Annexes "F-1", "F-2", "F-2-a" and "F-3" hereto attached as integral parts hereof; xxx

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(10). Roberto S. Benedicto was an overseer of sorts of the Xandy Foundation funds if one were to go by the withdrawals that were being made upon his instructions. For instance, Benedicto authorized the transfer of $1-M in favor of an undetermined payee as BBC, attention of Louis Sonier. He also authorized the payment

> of **$70,000 to the Russian-born painter, Marc Chagall (Please see Annexes "V-8 and "V-8-a" as integral parts hereof)**.
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> 63. **Judicial notice could also be taken of the notorious and frequent travels and shopping sprees of Imelda**, the generous giving of gifts to media men and highly-placed world figures and their ladies whom she wanted to befriend; **the unrestrained, almost autistic buying of** shoes, **paintings**, jewelries, clothing and expensive decorative arts; plus her widely publicized giving of bribes to political leaders, including many members of the 1971 Constitutional Convention. These and many other people's money are **reflected in the record book of Fe Roa Gimenez, as well as in several other documents found in Malacañang and those confiscated in Hawaii.**

Petitioner explains that from 1972 to 1985, respondent spouses spent over US$24,325,500.00 on paintings and artworks, purchased mostly through respondent Imelda's close associates such as Gliceria Tantoco, owner of Galerie Bleue; Vilma Bautista, Foreign Service Officer to the Philippine Mission to the United Nations in New York, and unofficially, acted as Imelda's personal secretary; and Fe Roa Gimenez, Imelda's personal assistant and former Malacañang Social Secretary. Respondent Imelda, by herself, her close associates, Tantoco's Gallerie Bleue and through the Metropolitan Museum of Manila (MMM), purchased the paintings from art galleries such as Hammer Galleries, Marlborough Fine Art Ltd., Knoedler-Modarco S.A., and Stair-Murdock Fine Arts, Ltd., among others.

Petitioner argues that respondent Imelda used Marcos-controlled funds, in particular, the Swiss Deposits accounts, the Philippine National Bank (PNB), and the Central Bank, among others, to create a multi-billion art collection. In *Republic v. Sandiganbayan,*[18] the Supreme Court declared the forfeiture of the Swiss Deposits held by five account groups including the Trinidad-Rayby-Palmy Foundation. Trinidad Foundation, organized by respondent spouses on August 26, 1970, was used to purchase valuable paintings from Marlborough Fine Arts using its Swiss Credit Bank Current Account No. 463498-42-1 from which the foundation paid US$2,900,000.00 for nine (9) paintings.

[18] July 15, 2003, 406 SCRA 190

According to petitioner, respondent Imelda displayed some of the artworks in the Manhattan East 66th Townhouse, the office of the Philippine Consulate and Mission to the United Nations which was converted to her personal use. A significant portion of the art collection was discovered to be missing after the 1986 Revolution. What remained in Malacañang and in the abandoned properties were shipment records, gallery receipts, checks, notes and bronze plaques and empty frames indicating the names of paintings and artists. Some of the paintings were later discovered in the possession of Adnan Kashoggi. Others were discovered in various guest houses in the Philippines. Recently, four (4) paintings were found in the possession of Vilma Bautista in the US.

Petitioner maintains that the lawful income of the Marcoses of just over US$304,372.43 from 1966 to 1986, conclusively determined by the Supreme Court in *Republic v. Sandiganbayan*, was not sufficient to pay for the paintings. Based on the sales receipts, invoices, reports and other documents found in Malacañang, the Manhattan East 66th Townhouse, the MMM, and the galleries, petitioner avers that the values of the paintings are as follows:

1. Paintings and artworks found in the MMM: US$578,445.48
2. Paintings found at the Goldenberg and Teus mansions: US$372,000.00
3. Paintings from various artists: US$11,842,507.50

Petitioner also points out that respondents have categorically admitted ownership of the paintings. Citing the Supreme Court in *Republic v. Sandiganbayan*, the respondents' denials in their Answer were characterized as sham or ineffective, and that their denials were in fact admissions. Likewise, in the Arelma case, respondents' answer was described as one that is replete with admissions that a trial would have served no purpose. Petitioner also asserts that as against the allegations in its petition, respondents merely gave stock answers which did not state the basis of such assertions. Hence, respondents' ineffective denial failed to properly tender an issue and the averments contained in the petition were deemed judicially admitted. Moreover, the Marcos children and then PCGG Chairperson Magtanggol Gunigundo had signed several Compromise Agreements all dated December 28, 1993 for a global settlement of the Marcos assets. While these

agreements were declared null and void, nonetheless, the Supreme Court, in *Republic v. Sandiganbayan,* considered the Agreements an unequivocal admission by the Marcoses of the ownership of the assets stated therein, which include paintings and works of art. Petitioner also points to an Agreement and Memorandum of Agreement executed by respondents with the PCGG which, though not enforced, contain respondents' admission of ownership of certain paintings and other works of art. Further, in respondents' pleadings in relation to the preliminary attachment, they never denied the existence of the art collection, their purchase and ownership thereof, and their possession of the same. Moreover, petitioner contends that respondent Imelda has consistently and unequivocally admitted ownership and possession of the paintings, by way of her posing with or displaying her art collection in countless pictures and videos published, both here and abroad, which serve as a direct admission and therefore, evidence against her.

Finally, as to the propriety of a summary judgment, petitioner argues that respondents have not raised any genuine issue of fact. The claim that Civil Case No. 0141 had been closed and terminated had long been raised and rejected by the Supreme Court in its Decision and Resolution in the Arelma case.

Opposition of Respondent Estate of Ferdinand E. Marcos

Respondent Estate of Ferdinand E. Marcos opposes the motion, citing the following grounds:

(1) Petitioner is guilty of forum shopping;

(2) The probate court has exclusive jurisdiction over the estate of the late President Marcos;

(3) The paintings or artworks mentioned in the Judicial Affidavits of the witnesses are not included in the action, as petitioner itself limited its claim to those listed in Annexes F-1, F-2, F-2-a and F-3 of the petition;

(4) Assuming without admitting that the paintings/artworks are included, petitioner did not include them in its Pre-trial Brief, hence,

the Pre-trial Order and Supplemental Pre-trial Order make no mention of the paintings/artworks;

(5) Petitioner is barred from recovering the paintings/artworks by means of Summary Judgment because of its unreasonable delay in filing the present motion; and

(6) Petitioner failed to present witnesses who have personal knowledge of the matters that they were testifying on.

As to the ground of forum shopping, respondent contends that petitioner filed civil and criminal suits in the United States of America against the Marcos spouses under the Racketeer Influenced and Corrupt Organizations (RICO) Act for the purpose of recovering, among others, paintings/artworks. Imelda Marcos was acquitted of the criminal RICO case, but it is unclear as to what became of the civil RICO cases. Respondent suggests that petitioner seemed to fail to obtain from the US courts a judgment/decision awarding to it the assets/paintings, which paved the way for the filing of interpleader suits. Moreover, respondent claims that petitioner entered into a compromise agreement respecting the paintings while the instant action is pending without the Court's authorization.

As to jurisdiction, respondent cites the petition for probate of the will of the late President Marcos it filed on October 16, 1992. Pursuant to Section 1, Rule 73 of the Rules of Court, the probate court has exclusive jurisdiction over the estate of Marcos and the present claim on the assets must be filed before said court.

Respondent adds that based from the specific averment in the petition, the only paintings covered by the present action are: (1) those already sold at public action in the US; (2) those found in Malacanang; and (3) those found in the US as specifically described in Annex F and series. However, not one of the paintings listed or described in petitioner's present motion or in the Judicial Affidavit of its witnesses is included in Annex F and series.

Respondent also argues that while petitioner may have made general or specific averments against the paintings of the Estate, petitioner's Pre-trial Brief only mentions the Swiss accounts and treasury notes, hence, these were the only ones mentioned in the Pre-trial Order and the Supplemental Pre-trial Order.

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Respondent maintains that if there are no triable issues, as stated by the petitioner in its motion, then the latter should not be seeking piecemeal judgments from the Court. The termination of the case should not be left entirely to the whims of the petitioner as it violates the respondent's constitutional right to a speedy trial.

Finally, as to the prosecution witnesses, respondent contends that they have no personal knowledge of any of the facts or any of the documents purportedly pertaining to the paintings mentioned in their respective Judicial Affidavits. Their knowledge, if any, is limited to knowing that there are documents in the possession of the PCGG. As it is beyond the witnesses' power to affirm the authenticity or the truth of the matter contained in each document, their knowledge is therefore hearsay.

Petitioner's Reply

In its reply, petitioner argues that the failure of respondent Imelda Marcos to deny the facts stated in the motion when she had the opportunity to do so constitutes as admission by silence. Such admission is then binding on respondent estate as an admission by partner, privy and conspirator, pursuant to Rule 130 of the Rules of Court.

Petitioner also points out that respondents do not deny their acquisition, ownership and possession of the paintings and artworks. Under no circumstances did respondents deny the specific or factual allegation of the petition and the motion. Respondent estate only attempts to challenge the motion on supposed legal grounds, but fails to tender any genuine issue of fact that requires the presentation of evidence.

As to the claim of forum shopping, petitioner argues that the RICO cases do not bar the instant action since there is no identity of parties, rights asserted and reliefs prayed for. Also, respondent's assertion that the probate court has jurisdiction is actually an admission of ownership over the subject paintings and artworks.

Finally, petitioner reiterates that respondents' argument that the artworks are not part of the petition has already been passed upon and rejected by the Supreme Court in *Marcos v. Republic,* and by the Court in its Resolution, dated March 3, 2015.

PETITIONER'S EVIDENCE

Petitioner presented eight (8) witnesses, namely, Jaime C. Laya, Regina Mercedes C. Cruz, Danilo Richard V. Daniel, Ma. Lourdes O. Magno, Teresita Avante-Rosal, Maria Ngina Theresa Chan-Gonzaga, Nelda Isuga Sansaet and Crisostomo R. Pantoja, whose respective testimonies are set forth below.

Jaime C. Laya,[19] former Governor of the Central Bank of the Philippines. In his Judicial Affidavit,[20] dated January 6, 2016, Laya testified that as Governor, he travelled to the United States as Philippine representative to the Boards of Governors of the International Monetary Fund and of the World Bank. He also visited the US in connection with the Central Bank and the Philippine government loan negotiations. When in the US, he was sometimes invited to dinner by Imelda Marcos at a townhouse on 66th East Street, which he visited about three or four times. Laya then identified pictures[21] of the façade and the interior of the townhouse, and some of the paintings which he saw therein. He described the townhouse as having various rooms with antique furniture, porcelain, chandeliers, paintings, and sculpture. He drew a layout of the first and second floors of the townhouse. He also confirmed knowing and meeting Vilma Bautista, whom Laya understood to be with the Philippine Consulate and Mrs. Marcos' personal secretary in New York.

Regina Mercedes C. Cruz,[22] Acting Deputy Director at the Bangko Sentral ng Pilipinas (BSP). Cruz testified[23] that she has seen two (2) of the paintings listed in the Writ of Attachment—the Portrait of the Porquesa de Sta. Cruz, and Famcushe, in the condominium unit of Imelda Marcos. She further explained[24] that when asked by Imelda to evaluate the Femme Couchee or Reclining Woman by Pablo Picasso, Cruz did not give any value then because of a recent appraisal. She recalled the painting to be at 40 Million, either in dollars or euros.

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[19] TSNs dated February 12, 2016 and March 17, 2016
[20] Records, Vol. XXXIII, pp. 567-780
[21] Exhibit K
[22] TSN dated March 17, 2016
[23] TSN dated October 24, 2014
[24] TSN dated March 17, 2016

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Danilo Richard V. Daniel,[25] Director of Research and Development Department of the PCGG. In his Judicial Affidavit,[26] Daniel explained that as the Director, he supervises the gathering of documents relating to the assets and properties of the Marcoses, their relatives and business associates, and on the basis of these collated documents, initiates the conduct of investigations relating to the ill-gotten wealth of said individuals, in order to recover such assets and properties, whether located in the Philippines or abroad. Daniel also assists in coordinating with the PCGG foreign lawyers in the preparation of petitions in ill-gotten wealth cases. He also assisted the OSG in the preparation of its petition for forfeiture.

In connection with artworks, Daniel was tasked to conduct investigations and provide the trail of evidence that will show how the Marcoses acquired various paintings and artworks based on available documents transmitted to PCGG in Manila by the PCGG office in New York, by some volunteer lawyers in New York, and by PCGG's foreign lawyers who handled the Marcos New York litigation in 1989. Some of the documents were seized in Malacañang in 1986. The documents were inventoried and stored in the PCGG Library. Based on his investigation, Imelda Marcos purchased the paintings through her associates, Gliceria Tantoco, Fe Roa Gimenez, and Vilma Bautista. The funds used for the purchase of some paintings came from government funds deposited with the Philippine National Bank (PNB) in New York, and from the Marcos' foundations in Switzerland. Mrs. Marcos purchased some of the paintings from Hammer Galleries, Knoedler Modarco, and Marlborough Gallery, all in New York, and Marlborough Fine Arts in London.

Daniel submitted a report-memorandum[27] to then PCGG Commissioner Ruben Carranza showing the trail of evidence to demonstrate how the Marcoses acquired several paintings. In relation to the purchase of three (3) paintings, namely, Utrillo's *La Maison Blanche,* Renoir's *Jeunes Filles au bord de L'eau,* and Grandma Moses' *Hoosick Valley,* Daniel attached to the report a letter from Hammer Galleries, invoice, invoice receipt, delivery receipt, Banker's Trust Company (BTC) check, and receipt of payment. He also attached a list of 52 Gobillard paintings,

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[25] TSN dated March 17, 2016
[26] Records, Vol. XXXIV, pp. 276-368
[27] Exhibit Y^4 and series

supported by handwritten notes of Gimenez and a Declaration of Oscar Carino. Also included in the report is the purchase of two (2) other artworks through Mrs. Tantoco, namely, Veronese's *City of Venice Adoring the Christ Child*, and Della Robbia's *Madonna and Child*, with supporting documents such as a debit advice, cashier's check payable to Knoedler-Modarco S.A., and letter acknowledging receipt of payment.

Daniel submitted another report[28] to then PCGG Commissioner Maria Ngina Theresa Chan-Gonzaga in relation to his investigation on the source of funds used to purchase Wyeth's *Moon Madness,* which source proved to be Traders Royal Bank (TRB) Account No. 36047732. TRB was beneficially owned by the late Ferdinand Marcos, through his dummy Roberto S. Benedicto. Another report[29] was prepared by Daniel on the artworks purchased from Marlborough Fine Arts in London and the Marlborough Gallery in New York.

Daniel also mentioned that there were four (4) Impressionist masterpieces found in the possession of Vilma Bautista, who acted as Imelda's personal secretary. These are Sisley's *Langland Bay,* Marquet's Le Cypres de Djenan Sidi Said, and Monet's *L'Eglise et La Seine a Vetheuil* and *Le Bassin aux Nymphease (Water-Lily).* Daniel reported[30] that Monet's Water-Lily was one of the nine (9) artworks bought by Mrs. Marcos from Marlborough Fine Arts with funds sourced from Trinidad Foundation, as shown by a debit advice.

Daniel estimated the total paintings and artworks acquired by the Marcoses from 1972 to 1983 at about 863 pieces. Daniel explained that they have identified 191 pieces of Yugoslavian naïf, 168 pieces of Russian Icons, and 9 old Italian paintings, all currently stored at the Metropolitan Museum; old random office paintings, 17 are stored at the Goldenberg mansion; 163 paintings/Tacloban artworks in Sto. Niño Shrine; 93 old master paintings sold in 1991; 37 various paintings sold; and about 156 other paintings sought to be recovered by the Republic. The sale of the paintings was caused under the authority of the US District Court in New York, and the proceeds were remitted to the Republic.

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[28] Exhibit Z^4 and series
[29] Exhibit A^5 and series
[30] Exhibit B^5 and series

Ma. Lourdes O. Magno,[31] the Officer-in-Charge of the Library and Records Division of the PCGG. Magno joined the PCGG in 1988 as a Document Categorizer. As such, she was given several documents to segregate and to categorize as to the contents for purposes of filing system. In her Judicial Affidavit,[32] Magno identified certified true copies of pictures[33] which, according to her, were recovered in Malacañang and are on file with the PCGG since 1986. She also identified certified true copies of documents[34] pertaining to the purchase of the paintings and artworks such as the PCGG List of Missing Artworks, affidavits, letters, invoices, receipts, checks, notes, and other documents.

Magno explained that some of the documents were stored at the mezzanine floor in Philcomcen Building, while the Malacañang documents and other pertinent documents were stored in a vault retained by PCGG at the Bangko Sentral. The holders of the key to the vault are the Office of the President, PCGG-COA, and Magno as PCGG Custodian. Presently, the documents stored in the vault in the PCGG office are the Marcos documents which were transferred from Bangko Sentral to the PCGG Library in 2013. The documents turned over by the US-DOJ after the RICO case are also stored in the PCGG. Magno also clarified that when a document is requested from the PCGG Library, she issues a certification as to whether it is a certified true copy of the original or a certified photocopy.

Teresita Avante-Rosal,[35] Intelligence Officer IV at the Research and Development Department of the PCGG. In her Judicial Affidavit,[36] Avante-Rosal testified that she has been employed with the PCGG since August 24, 1987. As an Intelligence Officer IV, she does research and conducts investigations on the artworks based on documents recovered by or transmitted to PCGG, to aid in the recovery of ill-gotten wealth acquired by the Marcoses and their cronies. She also prepares reports and executive summaries of the documents gathered.

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[31] TSN dated May 19, 2016
[32] Records, Vol. XXXIII, pp. 2-566
[33] Exhibit A and series of Magno's Judicial Affidavit
[34] Exhibits B to NNNN, inclusive, and PPPP to XXXX, inclusive, of Magno's Judicial Affidavit
[35] TSN dated May 19, 2016
[36] Exhibit C^5

Avante-Rosal claims that based on her research, Mrs. Marcos purchased paintings through persons closely associated with her such as Fe Roa Gimenez, and Spouses Gliceria and Bienvenido Tantoco, and through the Metropolitan Museum of Manila, Inc. (MMMI). Some of the artworks were purchased by Mrs. Marcos from Hammer Galleries and Knoedler-Modarco S.A. in New York, and some from the Leslie Samuels Collection, as shown by a report[37] prepared by Avante-Rosal. Together with Raquel Bunag and Stephen Tanchuling, Avante-Rosal also prepared an Executive Brief[38] which provides an overview of how the Marcoses acquired the artworks through the Spouses Tantoco and the issuance of BTC checks by Gimenez using funds from PNB New York.

As to the artworks purchased through the MMMI, Avante-Rosal received a confirmation[39] from the MMMI Registrar that Mrs. Marcos was the Founding Chairman while Bienvenido Tantoco acted as President of the Metropolitan Museum from October 10, 1979 until a few days before the February Revolution in 1986. The letter confirmed that neither Mrs. Marcos nor Tantoco had the authority to enter into purchase agreements in the name of MMMI; neither is there a record to confirm whether or not SanMar Export Corporation or Rustan's Gallery Bleue entered into purchase agreements in the name of MMMI. In another letter,[40] MMMI denied that the listing of artworks submitted to it by the FBI were ever part of its art collections. Since 1986, the PCGG has sequestered artworks from the Metropolitan Museum, as shown by inventory reports.[41]

In a Memorandum,[42] Avante-Rosal points out to a proposed Agreement, dated June 26, 1992, between PCGG and Mrs. Marcos, which states that certain artworks in possession of individuals/entities in the US and Switzerland shall be transferred to the National Museum for preservation and eventual disposition. In another Memorandum,[43] Avante-Rosal makes reference to another Memorandum of Agreement, of same date, proposing to amicably settle all civil and criminal cases pending and to be filed against the

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[37] Exhibit D^5 and series
[38] Exhibit E^5 and series
[39] Exhibit F^5 and series
[40] Exhibit G^5 and series
[41] Exhibits H^5, I^5 and series, J^5, K^5, L^5, and M^5
[42] Exhibit O^5 and series
[43] Exhibit P^5 and series

Marcoses. These agreements, duly signed by the PCGG Commissioner and Mrs. Marcos, are evidence that Mrs. Marcos asserted ownership and possession of the artworks claimed by the Republic through the PCGG.

Avante-Rosal also made a report[44] on twelve (12) paintings whose locations are known and which can be determined to have been purchased and owned by Mrs. Marcos. According to Avante-Rosal, a total of 168 paintings with an estimated cost of USD$10,000,000.00 to $15,000,000.00 were still missing.

Maria Ngina Theresa Chan-Gonzaga,[45] a Commissioner of the PCGG. In her Judicial Affidavit,[46] Commissioner Chan-Gonzaga stated that she is the commissioner-in-charge of the Research and Development Department assigned to investigate and gather evidence in relation to the recovery of ill-gotten wealth pursuant to EO Nos. 1, 2, 14 and 14-A, series of 1986, such as the present forfeiture case.

Commissioner Chan-Gonzaga's research and investigation includes the paintings purchased by or at the instance of Ferdinand and Imelda Marcos, using public funds and/or in an amount manifestly disproportionate to their aggregate and lawful salaries. According to her, some paintings have been recovered and sold, with the monies having been remitted to the Bureau of Treasury; four (4) were identified in New York in connection with the case of Vilma Bautista; eight (8) were identified to have been in Mrs. Marcos' possession; while approximately 144 paintings procured from international sources are still missing and unaccounted for, as enumerated in the PCGG List of Missing Artworks.[47] This list is the latest on file with the Art Loss Register (ALR), but is not a comprehensive one as there are still paintings and artworks that are subject of investigation and eventual recovery. The list also excludes missing paintings by Filipino artists, and other locally procured paintings and artworks.

The eight (8) paintings in possession of Mrs. Marcos are as follows: the *La Baignade au Grand Lemps* by Pierre Bonnard,

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[44] Exhibit N[5] and series
[45] TSN dated October 10, 2018
[46] Records, Vol. XXXIV, pp. 369-709
[47] Exhibit A and series

Madonna and Child by Michaelangelo Buenarroti, *Vase of Red Chrysanthemums* by Bernard Buffet, *Still Life with Idol* by Paul Gauguin, *Portrait of the Marqueza de Sta. Cruz* by Francisco de Goya, *L'Aube* by Joan Miro, *Reclining Woman VI / Femme Couchee VI* by Pablo Picasso, and the *Jardin de Kew Pres de la Serre* by Camille Pissaro. Based on the video clips[48] and photos of Mrs. Marcos, these paintings are at her residences either in Taguig City, Makati City, Batac, Ilocos Norte and/or San Juan City, and also in her office at the House of Representatives. To prove that the paintings are of ill-gotten source, Commissioner Chan-Gonzaga presented documents such as the steno notepad[49] and deposit record[50] of Fe Roa Gimenez, showing payment of US$ 3.5 Million for the *Madonna and Child*, and a Summary of Events,[51] from Hammer Galleries.

Aside from news articles,[52] Commissioner Chan-Gonzaga presented documents to prove that the paintings were stashed away by the Marcoses and/or their allies. Moreover, seven (7) of the above-mentioned paintings are the subject of a quitclaim executed by Adnan Khashoggi, as shown by a letter,[53] dated November 12, 1990, with letterhead *Munger, Tolles, and Olsen*, addressed to Howard Hawkins from Alan D. Bersin.

Commissioner Chan-Gonzaga testified that they examine and evaluate the documents[54] on file with the PCGG since 1986 up to the present, consisting of gallery receipts, correspondence from international galleries, shipment records, checks and other documents recovered from Malacañang. They also coordinate with the ALR, and the New York District Attorney (NYDA) for the investigation relative to the prosecution of Vilma Bautista, a Foreign Service Officer who acted as Mrs. Marcos' personal secretary. Based on the documents,[55] Bautista have been in possession of some of the missing paintings.

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[48] Exhibit R
[49] Exhibit LL
[50] Exhibit W
[51] Exhibit S
[52] Exhibit Q
[53] Exhibit P
[54] Exhibits T and series
[55] Exhibits G and L

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In her Supplemental Judicial Affidavit,[56] Commissioner Chan-Gonzaga added that the PCGG provided the NYDA documents, such as the list of PCGG Missing Paintings, and the Supreme Court decisions in G.R. No. 152154, Vilma Bautista's SALN and her government record. The NYDA shared pictures and other documents obtained from Bautista's residence, as well as copies of Marlborough Gallery documents,[57] invoices,[58] and sales reports.[59] Through Mr. Kenneth Murphy, PCGG's counsel in New York, copies of the documents were transmitted via electronic mail, dated March 29, 2014.

Nelda Isuga Sansaet,[60] Director for Administration at the Metropolitan Museum of Manila (MMM). Sansaet testified in her Judicial Affidavit[61] that since 2013, she was the acting custodian of museum documents pertaining to the purchase of numerous paintings prior to 1986. She explained that based on her identified documents,[62] the artworks listed therein that are part of the PCGG Collection and are stored in the MMM are Lippo Memmi Altar Piece of Five Saints (Old Italian Masters Paintings Collection), and Giuseppe Zais Large Landscape with Figures (Old Italian Masters Paintings Collection). As to the artworks listed in the document *Condition Report of Early and Contemporary Prints dated January 21, 2003,* they are currently stored in the museum and form part of the MMM Collection. Based from the records, the MMM purchased them sometime between 1976 and 1977. During cross-examination, Sansaet clarified that she did not participate in the execution of the documents and just participated in the review thereof. Sansaet also confirmed that the original documents in her custody are the books and the worksheets.

Crisostomo R. Pantoja,[63] a Palace Property Custodian in the Office of the President. In his Judicial Affidavit,[64] Pantoja explained that as property custodian, a position he assumed since March 8, 2007, he is in charge of palace repairs and the conduct of

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[56] Records, Vol. XXXIV, pp. 710-744
[57] Exhibits J^3 to J^3-21, and J^3-28
[58] Exhibits J^3-22 to J^3-24
[59] Exhibits J^3-25 to J^3-27, and J^3-29 to J^3-35
[60] TSN dated November 14, 2018
[61] Records, Vol. XXXVI, pp. 81-201
[62] Exhibits X^3 to L^4, inclusive
[63] TSN dated January 9, 2019
[64] Records, Vol. XXXVI, pp. 222-227

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inventories of palace property. Pantoja identified a certified true copy of a document[65] pertaining to the Grandma Moses Collection previously displayed at the Goldenberg Mansion, and a certified true copy of the property acknowledgement receipt which officially assigns him as custodian of the paintings of the said collection. The artworks referred to in the documents were in the Imelda Room, Malacañang, and in the possession of the Internal House Affairs Office (IHAO) for security, safekeeping and maintenance purposes.

On February 28, 2019, petitioner filed its Formal Offer of Evidence,[66] dated February 26, 2019. The Court resolved to admit all the exhibits offered, over the objections of the respondents, with certain observations.[67] Petitioner filed a *Manifestation and Motion,*[68] praying that its clarification as regards Exhibits RR, UUU and LL be noted, and by way of supplement to the formal offer, to admit the Judicial Affidavit of Dr. Laya for the purposes for which it was offered. Respondents Imelda Marcos and Irene Marcos Araneta manifested that Exhibit RR is still illegible. They also opposed the admission of Dr. Laya's Judicial Affidavit, arguing that it was not marked during the taking of the deposition or during the direct examination. Likewise, respondents objected to the admission of the TSNs from the RICO trial as the witness did not prepare the photocopy document himself.

On August 30, 2019, petitioner submitted its memorandum. No memorandum was filed by respondents Imelda R. Marcos and Irene Marcos Araneta, whose period to file expired on July 31, 2019, following the Court's Resolutions, dated August 13, 2019 and September 6, 2019.

DISCUSSION

Before discussing the threshold issue of whether or not the paintings and artworks are ill-gotten and should be forfeited in favor of the Republic, the Court will address first the procedural grounds raised by respondent estate in its opposition.

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[65] Exhibit B
[66] Records, Vol. XXXVI, pp. 284-515 to Vol. XXXIX, pp. 2-527, inclusive
[67] Records, Vol. XL, pp. 340-341
[68] Records, Vol. XLI, pp. 2-461

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Respondent estate claims that petitioner is guilty of forum shopping. It cited the RICO cases filed against the Marcos spouses for the alleged same purpose of recovering paintings/artworks, among other properties. Respondent estate argues that if the civil RICO cases were already dismissed, as respondent Imelda was acquitted of the criminal RICO case, then the instant action is barred by prior judgment of a foreign court.

The Court disagrees.

Forum-shopping exists when the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in another. *Litis pendentia* requires the concurrence of the following requisites: (1) identity of parties, or at least such parties as those representing the same interests in both actions; (2) identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and (3) identity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.[69]

The Court is in disbelief how respondent estate can propose that judicial notice be taken of the supposed judgment in the RICO case involving respondent spouses, and bar the present action on the basis of such judgment. Worse, respondent wants the Court to follow its faulty inference that petitioner seemed to have failed to obtain from the US courts a judgment on the paintings as it was allegedly deluged with interpleader suits. It is elementary rule that our courts cannot take judicial notice of foreign judgments and laws. Indeed, no sovereign is bound to give effect within its dominion to a judgment rendered by a tribunal of another country. [70] Thus, like any other facts, they must be alleged and proved.

Moreover, the Supreme Court, in a related case involving the Arelma assets, has noted that foreign courts have stated that turnover proceeding over assets found in their jurisdiction would severely prejudice the Republic's national interests. Thus:

> The Republic's declaration of sovereign immunity in this case is entitled to recognition because it has a significant interest in

[69] *Encinas v. Agustin, Jr.,* April 11, 2013, 696 SCRA 240, 259
[70] *Noveras v. Noveras,* August 20, 2014, 733 SCRA 528, 540

> allowing its courts to adjudicate the dispute over property that may have been stolen from its public treasury and transferred to New York through no fault of the Republic. The high courts of the United States, the Philippines and Switzerland have clearly explained in decisions related to this case that wresting control over these matters from the Philippine judicial system would disrupt international comity and reciprocal diplomatic self-interests.[71]

Nevertheless, it is clear that between the US cases and the instant forfeiture case, there is no identity of rights asserted and reliefs prayed for. Respondent estate itself claimed that the suits filed in the US were civil and criminal under the RICO Act and other claims for conversion, fraud, constructive trust, among others. On the other hand, the present case is a forfeiture proceeding which is an action *in rem* and therefore civil in nature. The proceedings under RA 1379, therefore, do not terminate in the imposition of a penalty but merely in the forfeiture of the properties illegally acquired in favor of the State.[72]

To further support its argument of forum shopping, respondent also raised the issue that petitioner entered into a compromise agreement with respect to the paintings while the instant action is pending without the Court's authorization. The Court is perplexed as to why respondent estate would resuscitate the matter of an old unenforced compromise agreement when a similar one involving the Swiss deposits was already declared null and void by the Supreme Court. Moreover, an admission of the existence of such compromise agreement only highlights the fact that respondents admitted their ownership and/or possession of the subject paintings.

Respondent estate also raises the issue of jurisdiction, arguing that the probate court has exclusive jurisdiction over the estate of the late President Marcos. Such argument must fail.

Section 2 of E.O. 14 expressly vests upon the Sandiganbayan exclusive and original jurisdiction over all criminal and civil suits filed by the PCGG. Section 3 of E.O. 14-A further clarified that "civil suits to recover unlawfully acquired property under Republic Act No. 1379 xxx filed with the Sandiganbayan against Ferdinand E. Marcos, Imelda R. Marcos, members of their immediate family, close

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[71] *Marcos, Jr. v. Republic*, March 12, 2014
[72] *Republic v. Sandiganbayan*, November 18, 2003, 416 SCRA 133, 142

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relatives, subordinates, close and/or business associates, dummies, agents and nominees, may proceed independently of any criminal proceedings and may be proved by a preponderance of evidence."

As settled by the Supreme Court in *Republic v. Gimenez:*

> This court has already settled the Sandiganbayan's jurisdiction over civil forfeiture cases:
>
> > . . . violations of R.A. No. 1379 are placed under the jurisdiction of the Sandiganbayan, even though the proceeding is civil in nature, since the forfeiture of the illegally acquired property amounts to a penalty.
>
> xxx all that the court needs to determine, by preponderance of evidence, under RA 1379 is the disproportion of respondent's properties to his legitimate income, it being unnecessary to prove how he acquired said properties. As correctly formulated by the Solicitor General, the forfeitable nature of the properties under the provisions of RA 1379 does not proceed from a determination of a specific overt act committed by the respondent public officer leading to the acquisition of the illegal wealth.[73]

Considering that the petition seeks the forfeiture under RA 1379 of, among others, the paintings and artworks which are the subject of the instant motion, the Court undoubtedly has exclusive and original jurisdiction over the properties sought to be forfeited.

Respondent likewise argues that the only paintings covered by the present action, based from the specific averment in the petition, are: (1) those already sold at public action in the US; (2) those found in Malacañang; and (3) those found in the US as specifically described in Annex F and series. Respondent contends that even assuming without admitting that the paintings mentioned in the motion are included in the action, petitioner's Pre-trial Brief only mentions the Swiss accounts and treasury notes.

Again, the Court is not persuaded.

A cursory reading of the petition will readily show which properties of the Marcoses did the petitioner exclude from the petition, and these are the assets, monies and properties involved in

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[73] January 11, 2016, 778 SCRA 261, 287

Civil Cases Nos. 0002 to 0035, inclusive, pending before the Court. However, as to the paintings and artworks, there is no indication whatsoever in the petition that petitioner limited itself only to those sold or found in the US, and those found in Malacañang. In fact, petitioner even reiterated in its motion the salient parts of the petition where the paintings and artworks were mentioned.

Moreover, this issue has already been settled by the Supreme Court in *Marcos v. Republic,*[74] when it issued a Resolution, dated March 15, 2017, affirming this Court in its issuance of a writ of attachment against the paintings. Thus:

> This Court quotes with approval the observation made by the Sandiganbayan with respect to the second issue. It said that the petition in Civil Case No. 0141 was replete with allegations that the paintings seized through the writ of preliminary attachment formed part of the ill-gotten wealth of the Marcoses. It correctly ruled that paintings were specifically mentioned in the Overview of the petition; in the Nature of the Petition; in the Summation; and most significantly, in the listing of properties which were subject of the forfeiture case, in paragraph 9(6) of the Petition.

As to the non-inclusion of the paintings in the Republic's Pre-trial Brief and Pre-trial Order, the Court has already ruled that they will be similarly treated as the Arelma assets the forfeiture of which the Supreme Court affirmed despite not being mentioned in the brief and order. In its Resolution, dated March 3, 2015, this Court states:

> The Supreme Court laid down the aforequoted jurisprudence in *Arelma* notwithstanding that *Arelma* was not mentioned in the Republic's Pre-trial Brief and in the Pre-trial Order. The paintings are similarly situated as the Arelma assets. It stands to reason that precedence in Arelma should also be applied to the paintings.
>
> This Court is devoid of power to re-open and review what has been set by the Honorable Supreme Court. It is the Court's considered view that respondents' submission that "it is high time the issue (non-inclusion in the pre-trial of subject matters other than the Swiss bank accounts) be resolved in light of established jurisprudence anent the matter for the guidance of the bench and the bar," is at best addressed to the Supreme Court. The Sandiganbayan cannot surmise on the wisdom of the High Court in ruling for the Republic despite the non-mention of the Arelma

[74] March 15, 2017, G.R. No. 217901

> assets in the pre-trial brief resulting to their non-inclusion in the Pre-trial Order and Supplemental Pre-trial Order.

Respondent estate also faults the petitioner for the latter's alleged unreasonable delay in filing the present motion. According to respondent, if there are no triable issues as claimed by petitioner, then it should not be seeking piecemeal judgments from the Court as the termination of the case should not be left entirely to the whims of petitioner Republic.

The Court disagrees.

The law looks with disfavor on long, protracted and expensive litigation and encourages the speedy and prompt disposition of cases. Hence, the law and the rules provide for a number of devices to ensure the speedy disposition of cases. Summary judgment is one of these devices.[75]

The Supreme Court has meticulously explained in *Republic v. Sandiganbayan* the importance of summary judgment in weeding out sham claims or defenses at an early stage of the litigation. Thus:

> Summary judgment is proper when there is clearly no genuine issue as to any material fact in the action. The theory of summary judgment is that, although an answer may on its face appear to tender issues requiring trial, if it is demonstrated by affidavits, depositions or admissions that those issues are not genuine but sham or fictitious, the Court is justified in dispensing with the trial and rendering summary judgment for petitioner Republic.[76]

Moreover, contrary to the claim of respondent that its constitutional right to a speedy trial is being violated by the partial summary judgments, the unnecessary expense and loss of time in a trial are in fact being avoided. Indeed, when the facts as pleaded appear uncontested or undisputed, then summary judgment is called for.[77]

It is well to remind respondent estate that the Supreme Court has noted that there is nothing in the Rules that prohibits a subsequent separate judgment after a partial summary judgment on

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[75] *Republic v. Sandiganbayan,* 406 SCRA 190, 252
[76] *Ibid*, 221
[77] April 25, 2012, 671 SCRA 280, 322

an entirely different subject matter had earlier been rendered. As the High Court elaborated in *Marcos, Jr. v. Republic*:

> The Swiss Deposits Decision dealt only with the summary judgment as to the five Swiss accounts, because the 2000 Motion for Partial Summary Judgment dated 7 March 2000 specifically identified the five Swiss accounts only. It did not include the Arelma account. xxx The 2000 Motion for Summary Judgment was confined only to the five accounts amounting to USD 356 million held by five Swiss foundations.
>
> xxx
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> Thus, the other properties, which were subjects of the Petition for Forfeiture, but were not included in the 2000 Motion, can still be subjects of a subsequent motion for summary judgment. To rule otherwise would run counter to this Court's long established policy on asset recovery which, in turn, is anchored on considerations of national survival.
>
> xxx
>
> With the myriad of properties and interconnected accounts used to hide these assets that are in danger of dissipation, it would be highly unreasonable to require the government to ascertain their exact locations and recover them simultaneously, just so there would be one comprehensive judgment covering the different subject matters.[78]

Finally, respondent contends that the petitioner's witnesses have no personal knowledge of any of the facts or any of the documents that they were testifying on, hence, their knowledge is hearsay.

The Court again disagrees.

With respect to witness PCGG Commissioner Chan-Gonzaga, whose Judicial Affidavit was already contested by respondents for allegedly being hearsay, the Court has ruled otherwise. In its *Resolution,* dated March 3, 2015, concerning the preliminary attachment of the paintings, the Court explained:

> As correctly posited by the Republic, documents, *i.e., gallery receipts, correspondence from international galleries, shipment*

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[78] *Ibid,* 309

> *records, checks*, pertaining to the purchase of numerous paintings identified by Comm. Chan-Gonzaga in her affidavit are public documents which do not require proof of genuineness and due execution to be admissible in evidence, and which enjoy a *prima facie* presumption of the facts stated therein.
>
> Pursuant to her Judicial Affidavit, dated August 27, 2014, Chan-Gonzaga is a Commissioner of the PCGG responsible for the cases filed by the Commission, including Civil Case No. 0141 and its incidents. Also, she is in charge of the Research and Development Department of the Commission tasked with investigating and gathering evidence pertinent to the recovery of ill-gotten wealth pursuant to Executive Order Nos. 1, 2, 14, and 14-A, series of 1986. Hence, she is competent to testify on the documents on file with the Commission.

Commissioner Chan-Gonzaga was also in direct coordination with the Art Loss Register, and the New York District Attorney (NYDA), and has been provided by the latter of pictures and other documents obtained from Vilma Bautista's residence, as well as copies of Marlborough Gallery documents, invoices, and sales reports.

The other witnesses include PCGG officials, such as Director Danilo V. Daniel, who supervised the gathering of documents relating to the assets and properties of the Marcoses, their relatives and business associates, as well as conducted investigations and provide the trail of evidence that will show how the Marcoses acquired various paintings and artworks. Director Daniel prepared various reports[79] of his investigation, and submitted these to then PCGG Commissioners Ruben Carranza and Chan-Gonzaga. Similarly, Teresita Avante-Rosal, another PCGG officer who has been employed with the PCGG since 1987, conducted research and investigations on the artworks based on documents recovered by or transmitted to PCGG. She prepared a report[80] on how the artworks were purchased by Mrs. Marcos from Hammer Galleries and Knoedler-Modarco S.A. in New York, and from the Leslie Samuels Collection, and another report[81] on twelve (12) other paintings whose locations are known and which can be determined to have been purchased and owned by Mrs. Marcos. Avante-Rosal also

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[79] Exhibits Y^4 and series, Z^4 and series, A^5 and series & B^5 and series
[80] Exhibit D^5 and series
[81] Exhibit N^5 and series

prepared an Executive Brief[82] which provides an overview of how the Marcoses acquired artworks through the Spouses Tantoco and the issuance of BTC checks by Gimenez using funds from PNB New York. Another PCGG official, Ma. Lourdes Magno, the OIC of the Library and Records Division of the PCGG, also competently testified how the documents pertaining to the purchase of the paintings and artworks were on file with the PCGG since 1986, and how some of the Malacañang documents were stored in a vault retained by PCGG at the Bangko Sentral, prior to their transfer to the PCGG Library in 2013.

As to the competence of the other witnesses, Dr. Laya personally saw for himself the paintings adorning the townhouse on 66th East Street, and identified the pictures of the said paintings. Witness Regina Cruz saw two of the paintings listed in the Writ of Attachment, located in respondent Imelda's condominium unit. Cruz testified that she was even asked by respondent Imelda herself to evaluate the *Femme Couchee* of Picasso. Nelda Sansaet, Director for Administration at the Metropolitan Museum of Manila, confirmed which paintings listed in the PCGG Collection are stored in the museum. Likewise, Crisostomo R. Pantoja, the custodian of the Grandma Moses Collection, testified that the artworks were in the Imelda Room in Malacañang, and in the possession of the Internal House Affairs Office (IHAO).

Verily, all the witnesses are competent to testify on the respective matters which they testified on.

The Court will now discuss the motion on its substantial merits.

R.A. 1379 provides that whenever any public officer or employee has acquired during his incumbency an amount of property manifestly out of proportion to his salary as such public officer and to his other lawful income, said property shall be presumed *prima facie* to have been unlawfully acquired.[83] Sections 2 and 6 of the forfeiture law provide:

> ***Section 2. Filing of petition.*** – Whenever any public officer or employee has acquired during his incumbency an amount or

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[82] Exhibit E^5 and series
[83] *Marcos, Jr. v. Republic*, April 25, 2012, 671 SCRA 280, 296

> property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed *prima facie* to have been unlawfully acquired.
>
> xxx
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> ***Sec. 6. Judgment.*** – If the respondent is unable to show to the satisfaction of the court that he has lawfully acquired the property in question, then the court shall declare such property in question, forfeited in favor of the State, and by virtue of such judgment the property aforesaid shall become the property of the State: *Provided*, That no judgment shall be rendered within six months before any general election or within three months before any special election. The Court may, in addition, refer this case to the corresponding Executive Department for administrative or criminal action, or both.

For the *prima facie* presumption to apply, the following elements must concur:

(1) the offender is a public officer or employee;

(2) he must have acquired a considerable amount of money or property during his incumbency; and

(3) said amount is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and income from legitimately acquired property.[84]

The first element is undisputed. As found by the Supreme Court in *Republic v. Sandiganbayan*, paragraph 4 of respondents' answer categorically admitted the allegations as to the personal circumstances of Ferdinand E. Marcos as a public official who served without interruption as Congressman, Senator, Senate President and President of the Republic of the Philippines from December 1, 1965 to February 25, 1986. Respondents also admitted in their answer the personal circumstances of Imelda R. Marcos who once served as a member of the *Interim Batasang Pambansa* from 1978 to 1984 and as Metro Manila Governor, concurrently Minister of Human Settlements, from June 1976 to February 1986.[85] Moreover, respondent Imelda reported income from her salary from the Ministry of Human Settlements and

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[84] *Republic v. Sandiganbayan*, 406 SCRA 190, 267
[85] *Ibid*, 255

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allowances from Food Terminal, Inc., National Home Mortgage Finance Corporation, National Food Authority Council, Light Rail Transit Authority and Home Development Mutual Fund.[86]

In relation to the third element, the Supreme Court stated in the Swiss Deposits case that the sum of $304,372.43 should be held as the only known lawful income of respondent spouses during their incumbency since they did not file any Statement of Assets and Liabilities (SAL), as required by law, from which their net worth could be determined.[87] This figure is then reiterated by the High Court in its ruling in the case of the Arelma assets.

The threshold issue for resolution now is: Did respondent spouses acquire a considerable worth of paintings and artworks during their incumbency, the total amount of which is manifestly out of proportion to their lawful income?

The Court finds in the affirmative.

To stress, the quantum of evidence required for forfeiture proceedings under Republic Act No. 1379 is the same with other civil cases—preponderance of evidence. Preponderance of evidence means evidence which is of greater weight, or more convincing than that which is offered in opposition to it.[88]

An assiduous review of the documentary and testimonial evidence adduced by the petitioner leads this Court to the sole conclusion that the weight of evidence preponderate in the Republic's side.

Without doubt, petitioner has presented an overwhelming amount of documentary evidence to establish the acquisition by respondent spouses of hundreds of valuable paintings and artworks worth at least US$20 Million. From gallery documents, invoices, receipts, sales reports, and even correspondences to respondent Imelda or her representative, petitioner has established *a prima facie* presumption that the subject paintings acquired by respondent spouses are ill-gotten, as their total value is manifestly disproportionate to respondents' lawful income.

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[86] *Ibid*, 222
[87] *Ibid*, 200
[88] *Republic v. De Borja*, January 9, 2017, 814 SCRA 10, 20

The Court is not unmindful of the fact that some of petitioner's documentary evidence were not the original copies. Indeed, pursuant to the Best Evidence Rule under Rule 130, Section 3 of the Rules, the original document must be presented during trial when the subject of the inquiry is the contents of the document. However, this admits of exception, such as:

> (a) When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;
>
> (b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;
>
> (c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and
>
> (d) When the original is a public record in the custody of a public officer or is recorded in a public office.

In the present case, the bulk of documents offered by petitioner are on file with the PCGG since 1986. These are papers which they were able to collect during their investigation. The witnesses who testified on the PCGG documents are PCGG high-ranking officials who have been involved with the recovery of the ill-gotten assets for more than 20 years now. They have competently testified on how the documents were collated, filed, reviewed and safekept by the PCGG. Moreover, some of the documents were only shared by foreign agencies such as the US-DOJ and the New York District Attorney's Office, as they were used in the US RICO cases.

Further, as elucidated by the Supreme Court in *Republic v. Gimenez,*[89] the trial court has the discretion to dispense with the production of the original whenever in the case at hand, the opponent does not *bona fide* dispute the contents of the document and no other useful purpose will be served by requiring production.

[89] January 11, 2016, 778 SCRA 261, 307

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In the present case, respondents did not dispute the contents of the documents offered. Petitioner even offered documents showing respondent spouses' participation in the transactions, such as letters addressed to them from gallery directors congratulating them for their purchase, invoices from galleries indicating respondent Imelda as purchaser, among others. Yet, respondents never did once dispute the contents of such documents. What respondent estate merely questioned was the credibility of the witness/es to identify or authenticate the documents, which the Court has already discussed earlier. Hence, there being no dispute or other useful purpose to require the presentation of the original copies, the Court exercised proper discretion in dispensing with the same.

It may not be amiss to point out that respondents failed to present a single document to substantiate how the funds used to purchase the artworks were acquired lawfully. In fact, in their Answer, dated October 18, 1993, they merely averred that they "specifically DENY paragraph 9 of the Petition for lack of knowledge or information sufficient to form a belief as to the truth of the allegations since Respondents are not privy to the actual data in possession of the PCGG and the Solicitor General." Such stock answer, which respondents lazily replicated in response to the other allegations in the petition, is a sham and does not conform to the manner required by the rules. Section 10, Rule 8 of the 1997 Rules of Civil Procedure, provides:

> Sec. 10. Specific denial.
>
> A defendant must specify each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters upon which he relies to support his denial. Where a defendant desires to deny only a part of an averment, he shall specify so much of it as is true and material and shall deny the remainder. Where a defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment made in the complaint, he shall so state, and this shall have the effect of a denial.

The purpose of requiring respondents to make a specific denial is to make them disclose facts which will disprove the allegations of petitioner at the trial, together with the matters they

rely upon in support of such denial.[90] To reiterate, simply stating that one "specifically denies" an allegation does not make a general denial become specific.

In the case of respondents, they failed to state and substantiate how they lawfully acquired the funds used to purchase the paintings. Respondents likewise failed to show proof that they had other legitimate sources of income aside from their combined salaries of $304,372.43. Hence, this sum legally and fairly serves as basis for determining the existence of a *prima facie* case of forfeiture of the artworks.

The Court also notes that aside from respondents' admission by silence, there were instances when respondents made express admissions as to their possession and/or ownership of the paintings and/or artworks.

In the Agreement, dated June 26, 1992, respondents, as part of their decision to amicably settle the cases, agreed to transfer the subject paintings from their custodians in the US to the National Museum of the Philippines. Such agreement, while unenforced, nevertheless serves as an admission on the part of respondents. Similar to the agreements on the Swiss deposits which were declared as a nullity, the admissions made in the agreement ceding the paintings to the Republic remain binding on the respondents. Notably, respondent estate in its opposition to the instant motion even brought up the matter of the compromise agreement.

Also, as pointed out by the petitioner, respondents estate and Imee Marcos made the following assertions in their *Motion to Quash Writ of Preliminary Attachment*, dated October 13, 2014, to wit:

V.

> xxx The paintings are real properties of the Estate and they should not have been physically seized or removed from the property of the Estate.
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> xxx xxx xxx

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[90] *Republic v. Sandiganbayan,* 406 SCRA 190, 234

> 34. By express definition therefore of the Civil Code the paintings that were seized from the house belonging to the Estate and respondent Imelda R. Marcos are real properties.
>
> xxx xxx xxx

An admission made in the pleadings cannot be controverted by the party making such admission and are conclusive as to such party, and all proofs to the contrary or inconsistent therewith should be ignored, whether objection is interposed by the party or not. The allegations, statements or admissions contained in a pleading are conclusive as against the pleader.[91]

Moreover, the individual and separate admissions of each respondent bind all of them pursuant to Sections 29 and 31, Rule 130 of the Rules of Court:

> Sec. 29. *Admission by co-partner or agent.* — The act or declaration of a partner or agent of the party within the scope of his authority and during the existence of the partnership or agency, may be given in evidence against such party after the partnership or agency is shown by evidence other than such act or declaration. The same rule applies to the act or declaration of a joint owner, joint debtor, or other person jointly interested with the party.106
>
> Sec. 31. *Admission by privies.* — Where one derives title to property from another, the act, declaration, or omission of the latter, while holding the title, in relation to the property, is evidence against the former.107

Where several co-parties to the record are jointly interested in the subject matter of the controversy, the admission of one is competent against all.[92]

In sum, petitioner Republic was able to establish the *prima facie* presumption that the paintings and artworks valued at US$24,325,500.00 acquired by the respondent spouses were significantly out of proportion to their aggregate salaries of $304,372.43 as public officials. Aside from the unsubstantiated "lack of sufficient knowledge" in their Answer, respondents failed to present evidence to overturn the presumption that the paintings and

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[91] *Eastern Shipping Lines, Inc. v. BPI/MS Insurance Corp.*, January 12, 2015, 745 SCRA 98, 121
[92] *Republic v. Sandiganbayan*, 406 SCRA 190, 266

artworks were unlawfully acquired. Hence, the forfeiture of said properties in favor of petitioner Republic is warranted.

WHEREFORE, in light of all the foregoing, petitioner Republic's *Motion for Partial Summary Judgment (Re: Paintings)*, dated February 24, 2016, is hereby **GRANTED**. Accordingly, partial summary judgment is hereby rendered:

1. **DECLARING** the following paintings and artworks as unlawfully acquired, and are therefore forfeited in favor of petitioner Republic of the Philippines:

(a) The artworks listed in *the PCGG List of Missing Artworks*;

(b) Grandma Moses Paintings;

(c) The artworks listed in *A Report on the Metropolitan Museum of Manila's Art Collection*; and

(d) Other similarly acquired valuable artworks which may also be found to be under the control and possession of respondents, their agents, representatives, nominees or persons acting on their behalf.

2. **ORDERING** the respondents, their agents, representatives, nominees or persons acting on their behalf, to:

(a) cease and desist from disposing, transferring and/or selling any of the above-mentioned paintings and artworks;

(b) render an accounting of the paintings and artworks that are still under their control and possession;

(c) render an accounting of paintings and artworks already sold and surrender the proceeds thereof to petitioner Republic; and

(d) surrender the paintings and/or divulge their current location.

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SO ORDERED.

EFREN N. DE LA CRUZ
Associate Justice/Chairperson

We Concur:

ALEX L. QUIROZ
Associate Justice

OSCAR C. HERRERA, JR.
Associate Justice

x----------x

ATTESTATION

I attest that the conclusions in the above partial summary judgment were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

EFREN N. DE LA CRUZ
Chairperson, First Division

CERTIFICATION

Pursuant to Article VIII, Section 13, of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

AMPARO M. CABOTAJE-TANG
Presiding Justice